

Extradition (Commonwealth Countries) Regulations (Amendment) 1997 No. 122

EXPLANATORY STATEMENT

STATUTORY RULES 1997 No. 122

Issued by the Authority of the Attorney-General and Minister for Justice

Extradition Act 1988

Extradition (Commonwealth Countries) Regulations (Amendment)

Section 55 of the *Extradition Act 1988* ("the Act") provides that the Governor-General may make regulations prescribing all matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act. Paragraph 11(1) (b) of the Act provides that regulations may apply the Act to a specified extradition country subject to such limitations, conditions, exceptions or qualifications as the regulations specify. In section 5 of the Act "extradition country" is defined as including, *inter alia*, a territory of a country or a territory for the international relations of which a country is responsible if that territory is declared by the regulations to be an extradition country.

The Regulations amend the list of extradition countries in Part 1 of the Schedule to the Extradition (Commonwealth Countries) Regulations ("the Commonwealth Countries Regulations") by omitting Hong Kong.

Extradition between Australia and most Commonwealth countries and their dependencies is conducted under the Commonwealth Scheme for the Rendition of Fugitive Offenders ("the London Scheme"), an arrangement of less than treaty status. The London Scheme is given effect in Australia by the Commonwealth Countries Regulations, which provide that the Extradition Act applies to the Commonwealth countries and dependencies listed as extradition countries in the Schedule subject to the limitations, conditions, exceptions or qualifications set out in the Commonwealth Countries Regulations.

As a dependency of the United Kingdom, Hong Kong was previously listed in the Schedule to the Commonwealth Countries Regulations. On its reversion to Chinese sovereignty on 1 July 1997 it will cease to be part of the Commonwealth and hence will cease to come within the scope of the London Scheme.

In anticipation of this Australia signed the Agreement for the Surrender of Accused and Convicted Persons between the Government of Australia and the Government of Hong Kong ("the Agreement") on 15 November 1993. The Extradition (Hong Kong) Regulations have been made to give effect in Australian domestic law to the Agreement from the date when the Agreement enters into force.

When the Agreement enters into force Hong Kong's extradition relationship with Australia will cease to be governed by the London Scheme. Accordingly, the Regulations will commence on that date.

Details of the Regulations are as follows:

Regulation 1 provides that the Regulations commence on 29 June 1997, which is the date on which the Extradition (Hong Kong) Regulations will commence.

Regulation 2 provides that the Commonwealth Countries Regulations are amended as set out in the Regulations.

Regulation 3 provides that Hong Kong is omitted from the list of extradition countries set out in Part 1 of the Schedule.